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READY FOR PRIME TIME: Minorities on Network Entertainment Television

by Dr. Chon A. Noriega
UCLA Department of Film, Television, and Digital Media

Despite the well-documented growth of racial minorities as a demographic, political, and market force within the United States, this population enters the twenty-first century with a lower level of media access and representation than since the civil rights era.

The cause can be traced to two factors: first, the slow rate of improvement in minority employment in the film and television entertainment industry; and second, the exponential increase in the minority population, such that "minorities" now make up the majority population in California and other areas (see fig. 1).

While minority employment figures have shown slight improvement over the last three decades, communities of color have grown from 16.4 percent of the national population in 1970 to 30.9 percent in 2000 (Bahr et al. 1979; U.S. Bureau of the Census 2002). In other words, this population has nearly doubled relative to the national population; and the Latino population alone has nearly tripled (4.5 percent in 1970 to 12.5 percent in 2000). To the extent that the entertainment industry has not kept pace with changing demographics, employment opportunities for racial minorities have actually *decreased* relative to the level of the 1970s. In other words, there are nearly twice as many people of color encountering roughly the same rate of employment.

FINDINGS ABOUT UNDERREPRESENTATION

This report focuses on network television since it reaches all television viewers, unlike cable, thereby providing one of the most powerful bases for a common national culture. While Americans go to the movies fewer than a dozen times in a year, most viewers spend almost as much time in front of the television as workers do

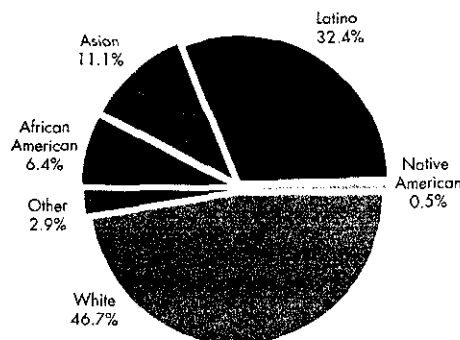


Fig. 1. Ethnic Groups as Percentage of California Population (Source: US Census Bureau 2000)

on the job in any given week. For racial minorities, representation on prime time plays an important role in shaping the views and opinions of millions of viewers tuned in to watch television every night. In addition to the portrayal of minorities in television shows, a related issue is that of equal opportunity and access to prime-time television for minority actors, writers, directors, producers, and executives.

In the past two years, cable and public television have been somewhat more responsive to demographic changes, producing series and specials directed at African American and Latino audiences. But racial minorities remain scarce at the four major broadcast networks: ABC, CBS, Fox, and NBC. Recent studies by the Directors Guild of America (see Braxton 2002), National Association for the Advancement of Colored People (August 2001), Children Now (September 2000), and the Tomás Rivera

Policy Institute (May 2000) reinforce this point.

In a preliminary analysis of prime-time series during 2001-2002, the UCLA Chicano Studies Research Center noted significant improvement in front of the camera, with racial minorities now filling 28.3 percent of regular and recurring roles on the four networks (see fig. 2). While the overall number is close to the national demographic of 30.9 percent, Latinos and Native Americans are represented at a rate less than half of their population. Furthermore, minority actors tend to be concentrated in a limited number of series. For example, *The George Lopez Show* accounts for one-third of Latino regular and recurring roles on ABC. Cancellation of these series could mean a significant decrease in overall minority employment.

Behind the camera, and in the executive suite, racial minorities continue to be significantly underrepresented. Minority directors are employed on a mere 4.5 percent of the episodes for series on the four networks (see fig. 3). While all groups were underrepresented on all networks, the situation was notably worse from some groups. No Native American directors were hired during the 2001-2002 season. ABC and NBC did not hire any Latino directors. While its numbers were also low, Fox nevertheless accounted for 57.6 percent of all minority hires among directors.

Minority writers make up 6.9 percent of series writers (see fig. 4). Again, all groups were underrepresented on all networks. African American and Asian American writers were hired at a rate about one-third of their national demographic. Latinos and Native Americans were hired at a rate about one-seventh of their national demographic. While its numbers were also low, Fox hired twenty-three minority writers, twice as many as each of the other three networks.

Fig. 2. ACTORS ON PRIME TIME 2001-2002
Percent of Recurring and Regular Roles by Network

	ABC	CBS	FOX	NBC	TOTAL
African Americans	18.8	23.0	20.1	12.1	18.3
Asian Americans	1.3	3.9	5.4	4.8	3.8
Latinos	7.1	5.5	7.1	4.4	5.9
Native Americans	0.4	0.0	0.4	0.0	0.2
TOTAL MINORITY	27.6	32.4	33.0	21.3	28.2

Fig. 3. DIRECTORS ON PRIME TIME 2001-2002
Percent of Episodes Directed by Network

	ABC	CBS	FOX	NBC	TOTAL
African Americans	1.0	2.7	3.4	2.0	2.2
Asian Americans	0.0	0.6	5.8	0.3	1.5
Latinos	0.0	0.9	2.4	0.0	0.8
Native Americans	0.0	0.0	0.0	0.0	0.0
TOTAL MINORITY	1.0	4.2	11.6	2.3	4.5

Fig. 4. WRITERS ON PRIME TIME 2001-2002
Percent of Positions by Network

	ABC	CBS	FOX	NBC	TOTAL
African Americans	2.6	2.4	7.1	4.1	4.0
Asians Americans	1.0	0.5	1.6	1.4	1.1
Latinos	1.5	2.4	3.3	0.0	1.7
Native Americans	0.0	0.0	0.5	0.0	0.1
TOTAL MINORITY	5.1	5.3	12.5	5.5	6.9

Fig. 5. NETWORK EXECUTIVES IN CHARGE OF PROGRAMMING
2001-2002
Number of Department Directors and Higher

	ABC	CBS	FOX	NBC	TOTAL
African Americans	0	0	0	0	0
Asian Americans	2	1	1	1	5
Latinos	0	2	0	0	2
Native Americans	0	0	0	0	0
TOTAL MINORITY	2	3	1	1	7
TOTAL POSITIONS AVAILABLE	31	40	21	27	119

Most analysts agree that change within the networks must come from the executive ranks, in particular those positions that have some responsibility over content, from production to scheduling. Minority executives in charge of programming account for seven positions or 5.9 percent of the 119 positions across the four networks (see fig. 5). These positions include department directors and higher. There were no African American and Native American executives included among these positions. Each network, however, has hired an African American executive as vice president of diversity, although these positions do not have a direct involvement in programming.

NEED FOR RESEARCH

The above data confirm earlier reports about underrepresentation behind the camera. To date, such reports have been unable to do more than present employment statistics and provide anecdotal information about discrimination in hiring practices and the work environment. By their very nature such studies cannot identify underlying causes and potential solutions. Their main purpose is to identify and draw attention to the problem.

For its part, the entertainment industry claims that it operates by economic rationale alone, citing ratings and box office as the major factors affecting decision making. But network television has an extraordinarily high failure rate: At least 75 percent of new series are cancelled in their first season. In the absence of a formula for success, the industry has invented one, going with the actors, producers, and formats it already knows. These do not provide a higher success rate, but they do provide executives with a greater comfort factor than gambling

on the unfamiliar. It is not a question of whether the industry takes risks but of whom it lets do so. In some instances this tendency raises questions about hiring practices, particularly for acting jobs, which are often racially designated up front. Most casting calls specifically advertise for "Caucasian" roles (Muñoz 2002). Such a fact raises many other questions about industry business practices.

There is an urgent need for an in-depth study of network television that provides more systematic and detailed information about employment, but that also examines the structure of the industry and its business practices as they relate to people of color. Network television is one of the major industries in the state of California; and people of color account for 53.3 percent of the state population. Both are among the state's most vital resources. Further analysis must begin to examine the impediments and practices that keep them apart.

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RECOMMENDATIONS

An in-depth study of network television must examine the following areas in order gain a more complete understanding of the situation facing people of color:

- Impact of minority images, or lack thereof, on public perceptions and public policy.
- Recruitment and hiring practices at all levels of the television industry
- Impact on minorities of business relationships among networks and production companies, vendors, talent agencies, and the guilds
- Executive decision making, particularly in marketing, sales, production and creative development.

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READY FOR PRIME TIME: MINORITIES ON NETWORK ENTERTAINMENT TELEVISION

Racial minorities remain scarce on prime-time entertainment at the four major broadcast networks. In-depth study is needed of industry hiring practices, business relationships, and programming decisions.

MISSION STATEMENT

The UCLA Chicano Studies Research Center supports interdisciplinary, collaborative, and policy-oriented research on issues critical to the Chicano community. The center's publication unit disseminates books, working papers, and the peer-reviewed *Aztlán: A Journal of Chicano Studies*.

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EXHIBIT 3



RTNDA/F RESEARCH

2002 WOMEN & MINORITIES SURVEY

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Making Diversity Work

KVUE-TV has made a commitment to diversity, in both its hiring practices and its news coverage. Here's how the diverse staff enriches the news product.

By Bob Papper for July-August 2002, *Communicator*

"I don't remember a time when we were lily white," says Judy Maggio about the KVUE-TV newsroom in Austin, TX, and she should know. Austin's top anchor has been there for more than 20 years—through three owners. And gradually, KVUE has come to very closely resemble the demographic makeup of its community. And not by accident. KVUE and its managers have a history of commitment to diversity.

The Austin market is 37.8 percent minority (25.3 percent Hispanic, 7.7 percent African American, 3.3 percent Asian American, 0.6 percent Native American, and 0.9 percent other). The relatively recent loss of three minority staffers (two Hispanics and one Asian) has dropped the KVUE newsroom down from a market-mirroring 36 percent minority to a still impressive 31 percent. Women make up 43 percent of the newsroom.

"You need to have a mix of ideas, backgrounds, cultures. We're in the broadcasting business," says Patti Smith, vice president and general manager of the station. Smith came in when Belo bought the station from Gannett in 1999. "KVUE was diverse when I came over three years ago," says Smith, "and we've added to that."

Both Smith and executive news director Frank Volpicella have the same policy in regard to hiring. "You have to mirror the community in which you live," says Smith. "If not, how do you expect to understand the issues in that community? If you hire without prejudice, then you will have the most diverse staff."

A Diverse History

Morning executive producer Thea Williams says a lot of the station's success with diversity has to do with KVUE's history of having women general managers and "nontraditional" people in positions of power. Williams says those people "have different ideas and different viewpoints in terms of who [else] can be in power."

Several people in the newsroom cite the legacy of KVUE's legendary vice president of news Carole Kneeland. She became news director in 1989 and worked tirelessly to make sure her staff reflected the community. Beyond that, Kneeland insisted the staff understand and cover all the varied segments of the Austin market and that the station have a "rainbow Rolodex." Morning meetings always included discussions about ensuring diversity among the people interviewed for stories. Kneeland died at age 49 in 1998 after an eight-year battle with breast cancer.

"She was my mentor," Maggio says. That legacy has helped keep the staff vigilant, and they make clear that they have no hesitation to speak up if they're at all concerned.

"I remember one meeting," says reporter Kris Gutierrez, "when one of our reporters stood up and said, 'I think we're getting away from [making sure we have diverse soundbites].' That's something I took to heart, and I think others did as well. We need to make a conscious effort that we're not just reporting the news to Miss Betty White."

"If it's a story that requires a medical perspective, it doesn't always have to be an Anglo male doctor," says 5 o'clock anchor Olga Campos, an eight-year veteran of the station.

Ron Oliveira thinks he may have been the first Hispanic main anchor in Austin-starting in 1981. "A nice, bold move for [KVUE] back then," he says. "There were very few Hispanic anchors when I started. Not just here, everywhere.

"Olga and I are making broadcast history here in town," notes Oliveira. "Two Hispanics anchoring a primetime newscast. None of the other stations has ever done that." Campos and Oliveira co-anchor the 5 o'clock newscast. Oliveira and Maggio co-anchor the 6 and 10.

"Both Ron and I are bilingual," says Campos. "When we were ad-libbing on our first day, it was in Spanish. We promised our viewers that the news will be delivered in English. We said that in Spanish. That is a historic moment."

Last Christmas, Gutierrez suggested a story about Christmas tamales. "It's something I grew up with," says Gutierrez. "Every Christmas we have tamales here in Texas. It's a Hispanic tradition. We did this great story of people lining up outside Rosie's Tamale Shop trying to get their hands on these tamales. And one of our African American reporters said, 'You know what? We have a black Santa in town.'"

Two points. First, diversity brings stories and culture into the newsroom that you might not otherwise have. Second, diversity isn't just about checking off boxes on a form. It's about people who are familiar with, have contacts with, and are part of the various communities in the market. The station did both of those stories, and the people at KVUE argue that their news is richer because of the diverse experience of the staff.

An Ongoing Process

While KVUE has one of the most diverse staffs in television news, there are some concerns in the newsroom. Of seven newsroom managers (news director, operations manager, two executive producers, special projects producer, assignment manager and chief photographer), one is a minority, and two are women.

"Sometimes I think the numbers aren't necessarily indicative of the power or the voice that particular groups may have in the newsroom," notes Williams, the one minority manager in the newsroom, although she thinks KVUE probably does a better job at diversity than most other stations.

The people who work at KVUE say they're not shy about making sure that the station maintains the kind of diversity that has been a hallmark.

Reporter Quita Culpepper says she doesn't worry about Belo maintaining diversity because she knows it's a priority at the company. But she also says she wouldn't hesitate to speak up if she thought that diversity was threatened. "Plenty of people feel that way," she says.

"Morally and ethically, it's right to have a newsroom that's diverse and reflects your market," says Volpicella. "With that good intention, it will always equate to good business."

"Everybody brings some personal experiences and opinions to the table every day," says Maggio. And does that make it a more interesting place to work? "You bet," she says.

-Bob Papper is a professor of telecommunications at Ball State University.

Sidebar: The Latest on EEO at the FCC

At the FCC Commissioner's Breakfast at NAB2002, FCC chairman Michael Powell made it clear that he believes the commission can put together EEO guidelines that will pass court review. However, Powell gave no time frame for the implementation of new rules, and as of this writing FCC staff members were unwilling to hazard a guess. Earlier this year, the FCC extended the public comment period on the new guidelines to mid-April and extended the reply period to mid-May.

The latest FCC proposal would require "broad outreach to all qualified job candidates for positions at radio, television and cable companies." It would accomplish that by requiring most stations to send job vacancy announcements to recruitment organizations that request them, and to select from a menu of specific outreach approaches, such as job fairs, internship programs and interaction with educational and community groups.

Small broadcast stations might be exempt from the rules; others would have to explain their recruiting efforts in an annual EEO report in their public file. Stations also would be required to file annual employment reports with the commission, but the information would be used only "to monitor industry

employment trends and prepare reports to Congress."

The latest proposals come in response to the latest D.C. Circuit Court of Appeals decision in 2001 throwing out the FCC's previous changes to the EEO guidelines.

Sidebar: Rainbow Rolodex

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MIXED RESULTS

The 2002 RTNDA/Ball State University Annual Survey shows a drop in minority representation in radio and television newsrooms, particularly among Hispanics. But the survey has good news for women.

Note: Survey results in red have been corrected from the July/August 2002 issue of *Communicator*. The original results were incorrect due to an editing error.

By Bob Papper and Michael Gerhard for July/August 2002 *Communicator*

There are more women news directors than ever, according to the latest figures from the RTNDA/Ball State University Annual Survey. The percentage of minority news directors is also up slightly, even though there's a slight decrease in the percentage of minorities overall.

Women now make up 25.9 percent of TV news directors—that's almost 2 percent higher than the previous record. Minorities make up 9.2 percent of television news directors, up from 8 percent last year.

At 20.6 percent, the TV minority work force slid back from last year's all-time high of 24.6 percent to just above the level from two years ago. Excluding Hispanic stations, the drop is less: from last year's 21.8 percent minority level to this year's 19 percent. Other than last year, that's the highest percentage of minorities at non-Hispanic stations ever recorded.

So why are minority numbers down from last year? There are two possibilities. First, last year's data could simply represent a statistical anomaly. We're always at the mercy of those who return the survey, and last year's sample could have overrepresented the population. Another possibility is that the downturn in the economy has hurt minority numbers: As minority journalists moved up in market size, stations were unable to replace them. That could lead to an overall drop in percentage.

Most of the decrease from last year is among Hispanics. Michael Reyes, member services manager of the National Association of Hispanic Journalists, says the group can't really compare last year's membership figures with this year's, but that there "definitely has not been a drop." He says the numbers have been "consistent if not up slightly."

The other segment taking the biggest hit is the Asian American group. Randall Yip, executive producer at KNTV in San Francisco and vice president of broadcast for the Asian American Journalists Association, says much the same thing—his group has no evidence of a drop in numbers.

Since this year's numbers for both Hispanics and Asian Americans tend to represent historical norms, that suggests that last year's data may well have overstated the percentages.

--Bob Papper and Michael Gerhard, professor and associate professor, respectively, at Ball State University, conducted the research with support from *Communicator* magazine at RTNDA and the Department of Telecommunications at Ball State.

BROADCAST NEWS WORK FORCE

Television

	2002	2001	1994
Caucasian	79.4%	75.4%	82.9%
AfricanAmerican	9.3%	9.9%	10.1%

Hispanic	7.7%	10.1%	4.2%
AsianAmerican	3.1%	4.1%	2.2%
Native American	0.5%	0.6%	0.6%

Radio

	2002	2001	1994
Caucasian	92%	89.3%	85.3%
AfricanAmerican	4.1%	5.2%	5.7%
Hispanic	2.4%	5.5%	7.5%
AsianAmerican	0.8%	<1%	0.6%
Native American	0.7%	<1%	1%

In television, minorities dropped to 20.6 percent-but the numbers are generally in line with historical trends (other than last year's). Without Hispanic stations, the minority percentage fell from last year's 21.8 percent to 19 percent this year. In radio, after a slight uptick last year, minorities continued the general slide that started with the elimination of the EEO guidelines. Note, column totals may not be 100 due to rounding.

BROADCAST NEWS DIRECTORS

Television

	2002	2001	1994
Caucasian	90.8%	92.0%	92.1%
AfricanAmerican	2%	0.6%	1.6%
Hispanic	5.8%	5.7%	3.8%
AsianAmerican	0.4%	1.1%	1.5%
Native American	1%	0.6%	1%

Radio

	2002	2001	1994
Caucasian	94.9%	95.6%	91.4%
AfricanAmerican	1.9%	1.5%	5.4%
Hispanic	2.6%	2.9%	2.4%
AsianAmerican	0	<1%	0
Native American	0.6	<1%	0.8%

There has been a slight rise in the percentage of minority television news directors, primarily among African Americans. Among non-Hispanic stations, the percentage of minority news directors rose from 5.3 percent to 6.7 percent. Radio has changed little in the past few years.

WOMEN IN LOCAL BROADCAST NEWS

Television

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	News Staffs With Women	Women News Directors	Percentage of Work Force	Average Number of Women on Staff
All Television	93.6%	25.9%	38.6%	11.3
Network Affiliates	97.4%	20.3%	39.9%	12.2
Independents	93.3%	29.4%	33.8%	9.4
DMA 1-25	100%	28%	38.5%	19.7
DMA 26-50	93.9%	14.3%	38.9%	17.0
DMA 51-100	94.7%	13.3%	37.5%	13.2
DMA 101-150	93.1%	24.6%	40.4%	9.1
DMA 151+	90.6%	23.2%	38.1%	5.9
Staff 51+	100%	15%	38.9%	24.2
Staff 31-50	98.7%	17.7%	39.2%	13.2
Staff 21-30	100%	22.6%	35.5%	8.4
Staff 11-20	100%	35.9%	42.1%	5.9
Staff 1-10	52.6%	4.8%	35.4%	1.4

Radio

	News Staffs With Women	Women News Directors	Women as Percentage of Work Force	Average Number of Women on Staff
All Radio	49.2%	22.3%	32.5%	1.4
Major Market	66.7%	26.1%	42.9%	3.2
Large Market	62.5%	31.0%	37.6%	1.5
Medium Market	50%	22.4%	32%	1.3
Small Market	32.7%	13.3%	19.5%	0.6

The biggest change here is the record number of women news directors-now 25.9 percent. It's possible that the number hasn't really jumped, but that we're just "finding them" for the first time. While most of the numbers are projected from the smaller sample of returned surveys, the overall number is an actual census count. If we used projected numbers based on survey returns, we'd report that 20.4 percent of TV news directors are women. The upshot here is that for some reason women news directors were less likely to fill out the annual survey than men. In radio, there were no dramatic changes from last year. The percentage of staffs with women increased a little (from 46.4 percent), and women news directors remained steady, but the percentage of women in the radio work force dipped from last year's record high of 37.4 percent. Major markets are those with 1 million or more listeners. Large markets are from 250,000 to 1 million. Medium markets are 50,000 to 250,000. Small markets are fewer than 50,000.

MINORITIES IN LOCAL BROADCAST NEWS

Television

	News Staffs With Minorities	Minority News Directors	Minorities as Percentage of Work Force	Average Number of Minorities on Staff
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All Television	83.1%	9.2%	20.6%	5.2%
Network Affiliates	86.9%	4.1%	16.3%	5.1
Independents	73.3%	33.4%	41%	11.5
DMA 1-25	95%	8.7%	30.2%	16.1
DMA 26-50	87.9%	8.6%	18.7%	8.2
DMA 51-100	96.4%	5.2%	15.7%	5.4
DMA 101-150	78.6%	6.9%	13.6%	3.1
DMA 151+	66%	7.4%	13.2%	2.1
Staff 51+	100%	10.5%	22%	13.9
Staff 31-50	94.7%	5.3%	17.3%	5.7
Staff 21-30	92%	5.8%	14.8%	3.1
Staff 11-20	65.8%	8.6%	16.9%	2.4
Staff 1-10	35%	5%	5.1%	0.8

Radio

	News Staffs With Minorities	Minority News Directors	Minority as Percentage of Work Force	Average Number of Minorities on Staff
All Radio	19.8%	5.1%	8.0%	0.4
Major Market	43.5%	8.6%	13.1%	1.2
Large Market	32.1%	14.3%	11.2%	0.5
Medium Market	10.2%	3.6%	3.2%	0.1
Small Market	11.4%	0	5.7%	0.2

The percentage of TV news staffs with minorities slipped slightly from last year's 86 percent, but the average number of minorities remained the same at 5.2. While there were not strong geographic differences in whether a television station was likely to have minorities on staff, stations in the South and West were far more likely to have minority news directors and a higher percentage of minorities on staff than stations in the Northeast or Midwest. Radio results are mixed; the percentage of staffs with minorities rose from last year's 15.5 percent, but the minority work force dropped from last year's 10.7 percent. Minority radio news directors edged up from last year's 4.4 percent.

GENERAL MANAGERS

Television

	Percent Caucasian	Percent Minority	Percent Men	Percent Women
All Television	94.8%	5.2%	87.0%	13.0%
Network Affiliates	97.5%	2.5%	87.4%	12.6%
Independents	72.2%	27.8%	77.8%	22.2%

DMA 1-25	91.7%	8.3%	92.0%	8%
DMA 26-50	94.1%	5.9%	88.6%	11.4%
DMA 51-100	91.7%	8.3%	82%	18%
DMA 101-150	96.7%	3.3%	90.3%	9.7%
DMA 151+	98%	2.0%	85.5%	14.5%
All Radio	96.2%	3.8%	89%	11%

The percentage of men and women general managers in television is virtually unchanged from a year ago, although women slipped slightly among network affiliates and rose substantially among independents. Minority TV GMs have dropped from 10 percent two years ago to 8.7 percent last year to 5.2 percent this time around, and minority GMs at network affiliates have dropped by more than half from last year (5.5 percent). In radio, there's little change in the percentage of women GMs from the last two years, but minority GMs dropped from last year's 5.7 percent to this year's 3.8 percent. Note that the figures for GMs include only those stations with news departments; those without news departments are not included in this survey.

NEWSPAPER VS. BROADCAST NEWSROOMS

	Daily Newspapers	TV Newsrooms	English Language TV Newsrooms
Minorities Overall	12.07%	20.6%	19%
African Americans	5.29%	9.3%	9.5%
Hispanics	3.86%	7.7%	5.8%
Asian Americans	2.36%	3.1%	3.2%
Native Americans	0.56%	0.5%	0.5%
Women	37.05%	38.6%	
Minority Supervisors	9.7%	9.2%	

The newspaper statistics come from the American Society of Newspaper Editors. Supervisors include the news director, assistant news director, managing editor and executive producer. The 9.2 percent minority supervisors represents the lowest number since we began collecting this data in 1996.

TV POSITIONS BY GENDER AND RACE

	Male	Female	White	Minority	African American	Hispanic/Latino	Asian American	Native American
News Director	74.1%	25.9%	90.8%	9.2%	2.0%	5.8%	0.4%	1%
Asst. News Director	67.4%	32.6%	87.4%	12.6%	6.2%	3.8%	0	2.6%
Executive Producer	50.4%	49.6%	89.4%	10.6%	7.4%	2.4%	0	0.8%
Managing Editor	70.3%	29.7%	86.9%	13.1%	7.4%	1.9%	3.8%	0
Assignment Editor	59.6%	40.4%	78.2%	21.8%	13.2%	6.1%	2.5%	0
News Producer	35.7%	64.3%	85%	15%	7.9%	5.0%	1.9%	0.2
News Anchor	43%	57%	79.1%	20.9%	12.0%	5.0%	3.6%	0.3%

Weathercaster	80.5%	19.5%	90.9%	9.1%	3.1%	5.0%	1%	0
Sports Anchor	92.6%	7.4%	89.4%	10.6%	6.0%	3.8%	0.8%	0
News Reporter	41.7%	58.3%	73.8%	26.2%	12.3%	7.9%	5.4%	0.6%
Sports Reporter	91.9%	8.1%	89.9%	10.1%	6.1%	4%	0	0
News Writer	33%	67%	64.7%	35.3%	14.8%	10.2%	10.3%	0
Photographer	92.7%	7.3%	82.7%	17.3%	9.1%	6.7%	1.1%	0.4%
Tape Editor	68.5%	31.5%	74.9%	25.1%	13.4%	10.2	1.5%	0
Graphics Specialist	68%	32%	78.6%	21.4%	8%	6.7%	6.7%	0
Internet Specialist	63.3%	36.7%	93.9%	6.1%	2%	4.1%	0	0
News Assistant	36.1%	63.9%	77%	23%	12.5%	7.9%	2.6%	0

We see relatively few trends developing as we look at specific newsroom positions. We collect these data every three years, and this marks the third time. Three years ago, it looked like both women and minorities were making headway in many of the higher-end positions. This year's numbers tend to split the difference between 1996 and 1999; women continue to be more likely than men to be news anchors, and that will probably continue as women reporters continue to outpace men. On the other side, women made no gains in weather, although minority weathercasters rose slightly. In sports-both sports anchor and sports reporter-neither women nor minorities have advanced at all. And photographers, if anything, are slightly more likely to be white and male.

[Click here for 2001 Women & Minorities Survey results](#)

[Click here for 2000 Women & Minorities Survey results](#)

About the Survey

The RTNDA/Ball State University Annual Survey was conducted in Q4 2001 among all 1,396 operating, non-satellite television stations and a random sample of 1,505 radio stations. Valid responses came from 818 television stations (58.6 percent) and 249 radio news directors and general managers representing 622 radio stations.

EXHIBIT 4

STATEMENT OF EDUARDO PENA

I, Eduardo Peña, respectfully state as follows:

I am the communications counsel for the League of United Latin American Citizens (LULAC). Previously, I served as the National President of LULAC and, before that, as Director of Compliance for the EEOC for ten years. I have practiced civil rights law for nearly four decades, and I formerly was a part owner of a television station that was affiliated with the ABC and later the Telemundo network. Over the past twenty years, I have participated in many FCC adjudicative and rulemaking proceedings. In 1993, I was a partner in the Silver Spring, Maryland firm Alexander, Gebhardt, Aponte and Marks.

With the authorization of and on behalf of LULAC, I am responding to Texas Association of Broadcasters (TAB) Executive Director Ann Arnold's suggestion, in her June 24, 2002 testimony at the FCC's en banc EEO hearing, that there was some irregularity in LULAC's challenge to various Texas television stations' license renewals in 1993. The allegation that LULAC would ever be involved in some kind of oppressive behavior is disappointing, insulting and absolutely wrong.

LULAC is keenly aware of the importance of television in focusing public attention on issues facing minority groups, as the Kerner Report documented and explained in 1968. National television coverage of the African American civil rights struggle in the south contributed profoundly to the success of the movement; yet the failure of southern television stations to discuss civil rights on the air did much to delay African Americans' attainment of the most elementary attributes of citizenship. Likewise, in Texas in 1993, the near-absence of Hispanics in broadcast journalism and public affairs staffs presented an impediment to having our issues addressed on the air. At LULAC's national conventions in the early 1990s, speakers and panelists complained bitterly that there were few people inside the television stations who were familiar with our issues, or who knew the people who were driving those issues. Thus, news directors and assignment editors tended to cover other matters with which they were already familiar or with which they could empathize.

For years, we had heard too many accounts from well qualified Hispanics that they could not secure employment at the Anglo stations. Few complaints were filed, since by filing such a complaint against an employer in a close-knit industry a person often throws his career out the window by becoming labeled a "troublemaker."

LULAC was fed up with this, and it decided to do something about it.

LULAC also recognized that while the FCC had had EEO rules since 1969, its enforcement staff relied almost entirely on complaints from members of the public to alert the Commission to problems with particular licensees. Thus, LULAC felt it was our duty to report EEO violations to the Commission.

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LULAC is not a stranger to the Texas Association of Broadcasters (TAB). We are their neighbors -- indeed, we long predated their existence. LULAC was founded in Texas in 1929, around the time when television was invented and five years before the FCC was created. Some LULAC members are broadcasters in Texas. In 1993, any broadcaster could have called our national headquarters, or our local representatives, to reach out to us or to share their concerns with anything we did.

LULAC is not some obscure "concerned citizens" group created to challenge a license and seldom lasting longer than the FCC's ruling. It is as conservative and mainstream as an organization created to defend the civil rights of Americans can be. When LULAC brings EEO litigation before the FCC, its road map is the same as that followed by the Office of Communication of the United Church of Christ and by the NAACP. In particular:

- we target only apparent "bad actors", irrespective of irrelevant factors like the parent company's size or a pending sale of the company;
- we seek nothing for LULAC itself;
- we never seek to oppress or embarrass our opponents; and
- in the event of a settlement, we always put all the terms in writing and document any reimbursable expenses carefully according to FCC standards.

LULAC has operated for eight decades under the highest standards of ethics. In Texas and throughout the United States, we have won renown for our diligent and aggressive battles against discrimination and for equal opportunity. In Texas, LULAC lawsuits brought about the desegregation of the "Mexican Schools," the elimination of the Poll Tax and the participation of Mexican Americans on juries. In California and Texas, LULAC lawsuits ended the prevalent practice of assigning Hispanic students into classes for the retarded. More recently, LULAC lawsuits against the State of Texas compelled the University system and the Texas Highway Commission to correct their longstanding practices of neglecting the educational and economic development needs of South Texas and the counties along the border, where almost half of the Hispanics in Texas reside.

Not all of LULAC's effort to improve the quality of life in Texas are achieved through litigation. LULAC councils throughout the state help to feed the hungry, and to clothe and shelter the poor. We work tirelessly to improve the educational system in the state. LULAC programs help students stay in school, graduate from high school and continue into college and graduate school. Since 1929, one of the principal efforts of LULAC councils has been to provide encouragement and support through the most extensive scholarship program available to Hispanic students in Texas.

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Surely the Texas Association of Broadcasters knew something about these and many other efforts by LULAC members to help make Texas a better place to live. Our efforts in the broadcasting industry, which influences so much in our society, are no less important.

Understandably, the targets of LULAC's battles are not always enamored of everything LULAC does. No one wants to be the subject of a civil rights action, even if such an action is well deserved.

As a group, Texas broadcasters' record of Hispanic employment is so weak that only the presence of systemic discrimination explains it. In 1992, FCC Form 395 data disclosed that there were 4,525 full time high pay (management, sales, professional and engineering) employees of Texas television stations, of whom 781 (17.3%) were Hispanic. However, when the Spanish language stations were omitted, these numbers become rather shocking: 513 out of 4,150 (12.4%) were Hispanic. In the 1990 Census, 25.5% of the Texas population was Hispanic. LULAC recognized that this wide a disparity could not be explained except as the fruit of intentional discrimination.

With 117 television stations in the state in 1993, our due diligence effort had to be very comprehensive. In preparing for litigation, we had two objectives: first, do not put EEO compliers through the travails of litigation; second, do not allow EEO noncompliers to escape accountability.

Thus, we reviewed the EEO performance and EEO programs of every television station in the state -- an enormous, tedious and very time-consuming task. Local LULAC councils, whose officers are volunteers, possessed years of collective knowledge of the stations' operations. They often heard from Hispanics who worked in the media and knew who was, and who was not, providing equal opportunity. In our due diligence, we usually found Form 395 data to be useful in mitigation, while the stations' 1988 and 1993 EEO programs (Form 396) often provided evidence in corroboration. In at least two instances, however, the Form 395 data was so extreme that it tended to support inferences of intentional discrimination that we had drawn from other evidence we possessed.

As a former Director of Compliance of the EEOC and a civil rights lawyer throughout my professional life, I can affirm that this is what happens normally in planning for EEO litigation.

As a result of our initial due diligence, we divided the television stations in Texas into four categories:

- (1) those that we knew were nondiscriminators and EEO compliers
- (2) those for which we could not form an opinion as to whether they were nondiscriminators and EEO compliers

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- (3) those we believed to be neglectful of their EEO compliance obligations, although we did not believe them to be intentional discriminators
- (4) those we believed were deliberate EEO noncompliers and, in most cases, deliberate discriminators.

These four categories are normal for civil rights litigation. As I noted above, LULAC did not focus on the parent company's size, whether the station was likely to be sold, or any other irrelevant factors. Instead, LULAC and other mainstream civil rights organizations focus only on stations that appear to be EEO noncompliers, to the exclusion of extraneous matters.

Of the 117 television stations in Texas in 1993, 98 were in category (1) or (2); that is, there were no grounds or insufficient grounds to question their FCC EEO bonafides.

Another three stations were in category (3). We did not challenge these stations' renewal applications. Instead, we wrote each of them a letter stating that they had been excluded from the petition to deny, but encouraging them to be more attentive to their EEO responsibilities. We did not ask them to do anything more than that.

Sixteen of the stations were in category (4), and we challenged the renewal applications of each of them. These stations were 13.7% of the 117 television stations in Texas. The stations were located in the following markets: College Station, Corpus Christi, Dallas-Fort Worth, El Paso, Houston, Lubbock, San Angelo, San Antonio, Sweetwater and Wichita Falls.

Much has been made of the role of Form 395 data in petitions to deny. As noted earlier, in at least two instances, the Form 395 statistics were so extreme that they added to inferences of discrimination we had derived from other evidence. However, the 1993 percentages of minorities among the top four category employees of the stations subject to our petition to deny ranged from 0% to 46%, with a median of 26%. These statistics -- which may surprise those who think citizen groups file petitions to deny by just counting heads -- reflects the fact that of all of the factors entering into an evaluation of whether discrimination may have occurred, overall employment statistics are only of secondary value.

The Petition was 35 pages in length, not counting exhibits.

We were careful not to "overplead." For example, we noted in the petition that one of the stations did not seem to be discriminating, but seemed instead to be operating outside the EEO rule through inattentiveness and neglect. Thus, as to that station, we sought only reporting conditions rather than a hearing, because reporting conditions seemed commensurate with the scale of its offense. (Later, when we found a database error in our petition, we withdrew it voluntarily as to that station.)

The FCC's staff, finding that a prima facie case of discrimination had been made out, conducted investigations of the allegations raised against six of the stations.

The dispositions of the stations' applications were as follows:

- Two cases were resolved with admonishments.
- Five cases were settled; these settlements were each approved by the FCC, and sanctions were not imposed.
- One case was settled, with Commission approval, but the Commission also imposed a conditional renewal and a forfeiture.
- One rather dramatic case resulted in a short term conditional renewal with a forfeiture.
- Six cases resulted in unconditional renewals.
- As noted above, one case was withdrawn by LULAC on its own motion.

These outcomes are normal for civil rights litigation. By comparison, the EEOC recently announced that 27% of private plaintiffs' workplace bias suits resulted in a recovery. See EEOC Litigation Report, 1997-2001 (August 13, 2002). As shown above, four out of 16 (25%) of the cases we brought resulted in FCC findings that the licensees' EEO performance had fallen short of what was expected.

Like almost every nonprofit organization, LULAC is open to settlement except in extreme cases. Sometimes, the parties' objectives can be achieved more efficiently through settlement than through continued litigation. A rule of thumb is that roughly 95% of all civil litigation eventually settles. At the FCC, only about 30% of EEO litigation settles. As shown above, of the 16 cases we brought in 1993 in Texas, six (38%) settled.

When we entered into settlement discussions, we did not propose anything the FCC had never before approved or was unlikely to approve. Nor, obviously, did we threaten any licensee with retribution if it did not reach agreement with us.

In approving these and all other settlements of EEO litigation, the Commission evaluates the merits of the allegations, as it must do under Section 309(d)(2) of the Communications Act. In all cases, the licensees were represented by experienced FCC counsel, and these lawyers did not hesitate to call me or my co-counsel, David Honig, if they had any questions or wanted to discuss settlement.

The settlements, when they occurred, sometimes were the product of LULAC's approaching the licensee, and sometimes were the product of the licensee approaching LULAC. As typically happens in any kind of litigation, these discussions occurred at "decision points" -- *i.e.*, when a pleading cycle ended, or when the Bureau had just issued a decision. In two instances, settlement discussions did not result in settlement, but at no time did opposing counsel (who we knew very well) ever advise us that our settlement proposals were inappropriate.

When a licensee sought settlement discussions, or agreed with us that settlement would be appropriate, the first step was for us to send a settlement proposal to the licensee's counsel upon his request for one. Our starting point was a draft form I helped develop that amplified on FCC Form 396 while also including elements of EEO consent decrees commonly used by the EEOC and by litigants in EEOC matters for decades. Due to often intense negotiations, this form typically went through numerous revisions, iterations, and adjustments to fit the particular circumstances of each case and the needs and abilities of each licensee. The settlements we reached typically included substantive commitments which provided that the station would, *e.g.*,

- notify local LULAC representatives and other organizations whenever job vacancies occur, and such vacancies are not to be filled through promotion from within;
- operate a student internship program at the station, exposing students to various substantive areas of competency, such as sales, research, programming, production and promotion; and
- meet regularly with local LULAC representatives for nonbinding dialogue concerning recruitment sources, training, internship opportunities, staff diversity (particularly in news), means by which Hispanic organizations in the station's service area might participate in the station's programming, and opportunities for Hispanic businesses to provide goods and services to the station.

These provisions are consistent with sound EEO practice and LULAC regards them as serving the public interest. The Commission has never hesitated to approve voluntary agreements with these kinds of provisions.

Ms. Arnold alleges in her June 24, 2002 en banc hearing testimony that what was being sought, apparently by LULAC, was "thousands of dollars for preparation of 'minority recruitment plans' for their station in exchange for dropping protests of their license renewals." As shown below, that allegation is not true.

Ms. Arnold may not have meant to imply that this money would go to LULAC itself; actually, LULAC never sought nor received a penny for itself. Under the FCC's anti-greenmail rules, LULAC could have, and only did, seek a portion of the value of its documented legal expenses. Those expenses had to be reviewed and approved by the FCC's staff before any compensation could be made.

The preparation of a "minority recruitment plan" was an essential element of any settlement, obviously. But drafting this straightforward document and negotiating its terms with opposing counsel (often requiring three or four iterations) hardly represented all (or even a majority) of the legal work done on LULAC's behalf in the litigation. Under Office of Communication of the United Church of Christ v. FCC, 465 F.2d 519 (D.C. Cir. 1972) and Agreements between Broadcast Licensees and the Public, 58 FCC2d 1129 (1975), LULAC was permitted to seek reimbursement of a portion of its fees and costs in the entire case -- including due diligence and pleadings.

All settlement terms were always reduced to writing and submitted to the Commission for its approval. There were absolutely no side deals nor requests for same. Each case that was settled was submitted for Commission review through a joint petition for approval signed by both sides' counsel, and each case involving a fee reimbursement was supported by a detailed declaration of counsel, using the guidelines developed by (retired) FCC EEO Branch Chief Glenn Wolfe over twenty years ago.

Most critically, the FCC approved each settlement without modifications and without requesting additional documentation. The total amount of reimbursable fees would not pay a half-year's salary for a single broadcast manager. This kind of litigation is hardly a profit center for a law firm, which helps explain why so few lawyers bother with it.

Respectfully, if the purpose of a petition to deny is to call material facts to the Commission's attention, we fulfilled that purpose reasonably well. The facts we called to the Commission's attention are the kind of facts any agency with civil rights enforcement authority would want to know.

Finally, Ms. Arnold alleges in her en banc hearing testimony that broadcasters "tell me and sometimes they even tell white male applicants that they cannot hire anyone but a minority." Although I have come across many peculiar utterances in my years as an EEOC official and a civil rights lawyer, the possibility that more than one or two broadcasters ever said out loud so outrageous a thing as "I cannot hire anyone but a minority" seems implausible to me. A television station is almost always represented by experienced communications counsel and local counsel. These lawyers would have advised their clients that the station's FCC license would be on the line if a broadcast manager openly proclaimed that his station engaged in race discrimination.

Declaration of Eduardo Peña

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As a former partner in a television station licensee, I know, and I'm sure every television station owner knows, that the FCC does not tolerate "reverse discrimination." On the other hand, discrimination against minorities and women, done covertly, happens far more frequently than most Americans would like to acknowledge.

I declare under penalty of perjury under the laws of the United States of America that the foregoing Declaration is true and correct to the best of my knowledge.



Eduardo Peña
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Dated: 9/27/02

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